



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,070	11/21/2001	Gert Rusch	7781.0040-00	9748

7590 10/06/2003
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

EXAMINER

LE, UYEN T

ART UNIT	PAPER NUMBER
----------	--------------

2171

DATE MAILED: 10/06/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,070

Applicant(s)

RUSCH ET AL.

Examiner

Uyen T Le

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☐ Claim(s) 8-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Inventorship

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Priority

2. Applicant is reminded that in order for a patent issuing on the instant application to obtain the benefit of priority based on foreign application No. 101 13 577.7 under 35 U.S.C. 119(a)-(d) or (f), a claim for such foreign priority must be made in the first sentence of this application.

Drawings

3. The drawings are objected to because:
- Figure 2, items 900, 901, 902 have to be labeled respectively as –Database System, 1st Application System, 2nd Application System—to be consistent with the description given in the specification. Applicant is kindly requested to review the whole specification and correct any discrepancy with the drawings;

Art Unit: 2171

- all blocks in Figures 3, 4, 6 have to be labeled for ready identification. For example, item 801 in Figure 3 should be labeled –Application User--.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14, 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Note the claimed scheme is not implemented in any tangible medium and merely includes descriptive material.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 8-11, 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Day III et al (US 6,502,108).

Regarding claim 8, the broadly claimed first and second application systems connected to a database system merely read on the primary system and the backup system of Day (see column 6, lines 11-28). Each application system clearly runs for a plurality of users. Furthermore, the first and second memory portions are clearly disjunctive since the backup memory is distinct from the primary memory and the primary system and backup system clearly access the first and second memory portions respectively as claimed.

Regarding claim 9, the claimed tables broadly interpreted merely read on the data stored in the databases of Day.

Regarding claim 10, the claimed unique profile assigned to each memory portion is met by the fact that one memory portion is assigned to primary memory and one portion is assigned to backup memory in the method of Day.

Regarding claim 11, clearly each profile is assigned to one of the application system because the primary system deals with the primary memory and backup system deals with the backup memory in the method of Day.

Regarding claim 13, Day discloses read and write (see column 8, lines 1-63).

Regarding claim 14, the claimed scheme recites the same limitations of claim 8, thus is rejected for the same reasons stated in claim 8 above.

Regarding claim 15, clearly the profiles are assigned to disjunctive memory locations of primary and backup memory database system.

Claims 16-18 essentially recite the same limitations of claim 8, thus are rejected for the reasons stated in claim 8 above.

Allowable Subject Matter

6. Claims 1-7 are allowed.
7. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or make obvious a computer system and method for a database system to support multiple application systems including a first application system, a second application systems and a database system having at least a first and second disjunctive memory portions, the database system storing at least a first assignment of a first predetermined profile to the first memory portion, storing at least a second assignment of a second predetermine profile to the second memory portion, the first and second profiles being unique and referring to the first and second applications respectively, the first application system and the second application system access the first memory portion and the second memory portion through the corresponding profiles.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parks et al (US 5,638,527) teach memory mapping.

Parks et al (US 6,598,174) teach storage unit replacement in non-redundant array.

Art Unit: 2171

Ofek (US 6,549,921) teaches performing point in time backup operation in a computer system.

VanderSpek (US 6,477,591) teaches storing and copying data via a first path and a second path wherein second path bypasses mirror driver.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T Le whose telephone number is 703-305-4134.

The examiner can normally be reached on M-F 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Uyen Le
Primary Examiner
Au 2171

29 September 2003